

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,
ex rel. DON HANKS,
Plaintiffs,

Civil Action No. CV-08-3096

v.

(Johnson, J)
(Levy, M.J.)

AMGEN, INC.; et al.

**NOTICE OF UNITED STATES' MOTION TO
AUTHORIZE SETOFF**

Defendants.

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PLEASE TAKE NOTICE THAT the United States of America will move this Court before the Honorable Sterling Johnson Jr., United States District Judge for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, on a date to be established by the Court, for an order authorizing it to setoff the entire amount due to Donald Hanks, the relator herein, against the unpaid balance of the judgment for federal income taxes entered against Hanks in *United States v. Hanks et al*, No. 3:09-cv-101 (U.S.D.C.M.D. Fla. Feb. 4, 2013).

Pursuant to the settlement agreement between the United States, Hanks, and Amgen Inc. that resolved the False Claim Act claim against Amgen in this case, the United States has to pay Hanks \$220,411.04 as his share of the settlement under 31

U.S.C. § 3730(d). At the same time, as of January 15, 2016, the unpaid balance on the tax judgment against Hanks is \$249,534.72 .¹

The United States has the common law right of setoff to apply the entire amount due to Hanks under the settlement agreement in this case to the unpaid balance of the tax judgment.

The motion is supported by a Memorandum of Law, the declaration of IRS Advisor Lillian M. Emaish, the declaration of trial attorney Boris Kukso, and exhibits thereto.

PLEASE TAKE FURTHER NOTICE THAT, subject to approval of the Court, the United States proposes the following briefing schedule:

Opposing Brief To Be Served By Hand or Overnight Mail On: January 22, 2016

Reply Brief To Be Served By Hand or Overnight Mail On: January 29, 2016

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¹ Hanks has other unpaid federal income tax liabilities that are not included in the judgment, but at this point, the United States seeks to collect the remainder of the judgment obtained in the Middle District of Florida.

PLEASE TAKE FURTHER NOTICE THAT opposing papers should be served on the United States for filing with the Court upon completion of all briefing in accordance with the Court's rules.

Dated: January 8, 2016.

CAROLINE D. CIRAULO
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/s/ Boris Kukso
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